Introduced by Senator Gaines

January 22, 2013

An act to amend Sections 8104 and Section 8105 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST


(1) Existing law prohibits mentally ill persons who meet specified criteria from possessing firearms or deadly weapons. Existing law requires the State Department of State Hospitals to maintain records in its possession that are necessary to identify persons who come within this prohibition and to make these records available to the Department of Justice upon request.

This bill would require the State Department of State Hospitals to make these records available to the Department of Justice electronically, within 24 hours, in a manner prescribed by the Department of Justice.

(2) Existing law prohibits a person from possessing a firearm or deadly weapon for a period of 6 months when the person has communicated a serious threat of physical violence against a reasonably identifiable victim or victims to a licensed psychotherapist. Existing law requires the licensed psychotherapist to immediately report the identity of the person to a local law enforcement agency, and requires the local law enforcement agency to immediately notify the Department of Justice.
This bill would instead require the licensed psychotherapist to make the report to local law enforcement electronically, within 24 hours, in a manner prescribed by the department. The bill would also require the local law enforcement agency receiving the report to notify the department electronically within 24 hours, in a manner prescribed by the department.


The people of the State of California do enact as follows:

SECTION 1. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The State Department of State Hospitals shall maintain in a convenient central location and shall make available to the Department of Justice those records that the State Department of State Hospitals has in its possession that are necessary to identify persons who come within Section 8100 or 8103. These records shall be made available to the Department of Justice electronically, within 24 hours, in a manner prescribed by the Department of Justice, upon request. The Department of Justice shall make these requests only with respect to its duties with regard to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, on a machinegun as defined in Section 16880 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in Sections 17170 and 17180 of the Penal Code, assault weapons as defined in Section 30510 of the Penal Code, and destructive devices as defined in Section 16460 of the Penal Code, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or to carry, or the possession,
purchase, or transfer of, explosives, destructive devices, devices
as defined in Section 16250, 16530, or 16640 of the Penal Code,
in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal
Code, or in subdivision (a) of Section 16840 of the Penal Code;
short-barreled shotguns, short-barreled rifles, assault weapons,
and machineguns, or to determine the eligibility of a person to
acquire, carry, or possess a firearm, explosive, or destructive device
by a person who is subject to a criminal investigation, a part of
which involves the acquisition, carrying, or possession of a firearm
by that person.

SEC. 2.
SECTION 1. Section 8105 of the Welfare and Institutions Code
is amended to read:

8105. (a) The Department of Justice shall request each public
and private mental hospital, sanitarium, and institution to submit
to the department that information that the department deems
necessary to identify those persons who are within subdivision (a)
of Section 8100, in order to carry out its duties in relation to
firearms, destructive devices, and explosives.

(b) Upon request of the Department of Justice pursuant to
subdivision (a), each public and private mental hospital, sanitarium,
and institution shall submit to the department that information
which the department deems necessary to identify those persons
who are within subdivision (a) of Section 8100, in order to carry
out its duties in relation to firearms, destructive devices, and
explosives.

(c) A licensed psychotherapist shall report to a local law
enforcement agency electronically, within 24 hours, in a manner
prescribed by the Department of Justice, the identity of a person
subject to subdivision (b) of Section 8100. Upon receipt of the
report, the local law enforcement agency, on a form prescribed by
the Department of Justice, shall notify the department
electronically, within 24 hours, in a manner prescribed by the
department, of the person who is subject to subdivision (b) of
Section 8100.

(d) All information provided to the Department of Justice
pursuant to this section shall be kept confidential, separate and
apart from all other records maintained by the department. The
information provided to the Department of Justice pursuant to this
section shall be used only for any of the following purposes:
(1) By the department to determine eligibility of a person to acquire, carry, or possess firearms, destructive devices, or explosives.

(2) For the purposes of the court proceedings described in subdivision (b) of Section 8100 to determine the eligibility of the person who is bringing the petition pursuant to paragraph (3) of subdivision (b) of Section 8100.

(3) To determine the eligibility of a person to acquire, carry, or possess firearms, destructive devices, or explosives who is the subject of a criminal investigation, if a part of the criminal investigation involves the acquisition, carrying, or possession of firearms, explosives, or destructive devices by that person.

(e) Reports shall not be required or requested under this section where the same person has been previously reported pursuant to Section 8103 or 8104.